

**ANTHONY
ASQUITH**

Commissioner of Patents
Washington, DC 20231

01 December 2000

Patent Agent



Dear Sir,

Re: United States Patent Application: 09/297,588
MINIMUM TILL SEEDING KNIFE
Applicant: SUMMACH ET AL.
Our File Ref: 801-49US

Anthony Asquith BSc
Registered Patent Agent
(Canada and USA)
Chartered Patent Attorney (UK)
European Patent Attorney

This is a request that the status of abandonment be withdrawn for the above mentioned case. The status was invoked because of an error by the PTO.

The enclosed Declaration, including Exhibits, confirms that the Rule 1.495 Requirements were received at the PTO on Monday, July 31st 2000. Therefore, we request that the PTO now issue a filing certificate showing July 31st 2000 as the Filing Date.

Since, the application was in fact filed in the United States within the time limits under 35 U.S.C. 371, we request that the PTO correct its error without the requirement of a fee.

We look forward to receiving the Filing Certificate.

Submitted by,


Anthony Asquith
Agent for the Applicant

Office and
Postal Address:

Anthony Asquith & Co
173 Westvale Drive
Waterloo, Ontario
Canada N2T 1B7

encl
declaration including exhibits A-F

Telephone:

519 746 6732

Facsimile:

519 888 6093

in Fed Ex 8218 1481 7576

United States Patent Application Serial Number: 09/623,847
Applicant: Summach et al.
Title: MINIMUM TILL SEEDING KNIFE



Attorney's Docket No: 801-49US

DECLARATION CONCERNING INCORRECT FILING DATE

I, Karen Margaret Owen, of 312 Snyders Rd East, Baden, Ontario, Canada N0B 1G0, make the following Declaration.

1. I am employed as office manager by Anthony Asquith, registration number 32373, and I have been so employed continuously since 1993.

2. Exhibit A is a copy of a notification of abandonment issued by the Patent and Trademark Office in respect of the above patent application. The notification shows the reason for abandonment as failure to file the application within the time limit. In this case, it was required that the Rule 1.495 Requirements be filed no later than 07 August 2000.

3.1 I understand the PTO has actually received the 1.495 Requirements in full, but the PTO alleges that these Requirements were deposited at the PTO, not on Monday, July 31st 2000, but on Thursday, September 7th 2000.

3.2 I state that the 1.495 Requirements were deposited at the PTO, not on September 7th, as the PTO alleges, but on July 31st 2000. I have been asked to put together the materials which prove that the Requirements were indeed deposited (by FedEx courier) on July 31st. This proof is in two parts, i.e first an envelope was indeed deposited at the PTO on July 31st, and second, that the envelope did indeed contain the 1.495 Requirements.

4. As proof that an envelope was indeed delivered, we provide Exhibit B. This is a proof of delivery by Federal Express for package 8173 9050 4437, signed by G Negash, who is believed to be an employee of the PTO, on 31 July 2000.

5. As proof as to the contents of the FedEx envelope, we provide the following.

5.1 We have a routine office procedure, which I follow when I send papers to the PTO for hand delivery by courier. Exhibit C is an extract from our office procedures manual. I declare that I followed that procedure in the present case.

5.2 Exhibit D is a copy of our Log Book entry relating to the materials I sent to the PTO on Friday, July 28th 2000. It shows I placed a bundle of papers relating to this case (Docket 801-49US) into a FedEx envelope on that date, and it shows that the papers were in respect of Entry into the National Phase. These are the papers the PTO says it received September 7th. The date entered on the FedEx weighbill as the pick-up date is (Friday) July 28th 2000, and I declare that that is the day I performed the procedures described in Exhibit C.

5.3 Exhibit E is a photocopy of the cheque which I included in the bundle of the 371(c) Requirements. I understand the PTO alleges it received this cheque, with the other materials, on Thursday September 7th 2000. I Declare that, on Friday, July 28th 2000, I checked that this cheque was included in the FedEx envelope number 8173-9050-4437, which is the FedEx envelope that was deposited at the PTO on Monday, July 31st 2000.


5.4. Exhibit F is a copy of the Transmittal Letter included in the bundle, which carries the words "in FedEx 8173 9050 4437" printed in my hand writing on the bottom of the page. I emphasize that the weighbill number written on the transmittal letter is the same weighbill number as the package deposited by FedEx at the PTO on July 31st.

5.5 In view of the above, I am able to Declare that the contents of the Fedex envelope 8173 9050 4437 deposited at the PTO on Monday, July 31st 2000 did indeed contain the Rule 1.495 Requirements, including the cheque in payment of the required fees, and I do so Declare.

6. I cannot think of any explanation as to how or why the PTO might have given the wrong date to this delivery of documents. The documents the PTO says it received Thursday September 7th 2000 were in fact contained in the FedEx envelope that was hand-delivered by FedEx to the PTO on Monday July 31st 2000.

7. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Signature of Declarant: 

Date of signing: 



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS

Box PCT

Washington, D.C. 20231

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/623847	SUMMACH	801-49US
INTERNATIONAL APPLICATION NO.		
PCT/CA99/00073		
I.A. FILING DATE		PRIORITY DATE
05 FEB 99		05 FEB 98
DATE MAILED: 28 SEP 2000		

ANTHONY ASQUITH
173 WESTVALE DRIVE
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CANADA

OIPE JC189
DEC 07 2000
PATENT & TRADEMARK OFFICE

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as

☐ a Designated Office (37 CFR 1.494), ☒ an Elected Office (37 CFR 1.495), has made the following determination:

- ☐ Applicant's letter of express abandonment received _____ is in compliance with CFR 1.138 and is hereby acknowledged.
- ☐ Applicant has failed to provide the full U.S. Basic National Fee by ☐ 20 months (37 CFR 1.494(b)(2)), ☐ 30 months (37 CFR 1.495(b)(2)).
- ☐ Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed _____ within the time period set therein.
- ☐ Applicant has failed to properly respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed _____ within the time period set therein. See the attached NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916).
- ☒ Other.

Your application for examination in the United States under 35 U.S.C. 371, was due no later than 07 August 2000. We received your application on 07 September 2000.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C 371 and 37 CFR ☐ 1.494, ☒ 1.495 and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

Esther Dove, Paralegal

Telephone: 703-305-5460

RECEIVED OCT 23 2000

"Exhibit A"



Federal Express Canada Ltd.
1170 Carleton Place, Suite 104
Mississauga, Ontario
Canada L5L 1A4



October 24, 2000

KAREN OWEN
ANTHONY ASQUITH
173 WESTVALE DR
WATERLOO, ON N2T1B7
CA

Dear KAREN OWEN:

Our records reflect the following delivery information for the shipment with the tracking number 817390504437.

DELIVERY INFORMATION:

Signed For By: G. NEGASH
G. Negash

Delivered to: 2011 JEFF DAVIS LOBBY
Delivery Date: July 31, 2000
Delivery Time: 09:44 AM

Shipping Information:

Tracking No: 817390504437

Ship Date: July 28, 2000

Shipper: A ASQUITH
ANTHONY ASQUITH & CO.
WATERLOO, ON N2T1B7
CA

Recipient: COMMISSIONER FOR PATENTS
U.S. PATENT & TRADEMARK OFFICE
CRYSTAL PLAZA 2 MAIL ROOM
ARLINGTON, VA 22202

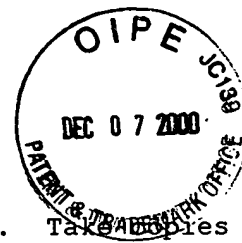
Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service
1-800-GO-FEDEX
Reference No: EDR WEB 10/24/2000 10:06:20 by 161.135.119.87

This information is provided subject to the FedEx Service Guide.

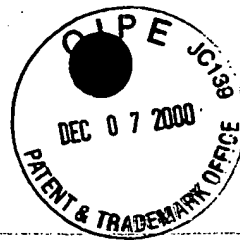
Exhibit B

Sending Papers to the Patent Office by Courier



- (a) Assemble the bundle of papers that is to be sent to the PTO. Take photocopies of the papers in the bundle, and put the bundle of copies in our case-file
- (b) If we have bundles of papers on two or more cases for the PTO, place the separate bundles of papers each into their own paper-envelopes, and write our file-reference-number, and a short description of the bundle, on the paper-envelopes.
- (c) Record the file-reference-number, the short description of the bundle, and the nature of the papers (e g "covering letter", "specification", "drawings", "O/A response", etc.) together with the number of pages or sheets of each, in the log book. Check that all documents are properly signed. For cheques, record the cheque number, and the amount.
- (d) Write the Fed Ex weigh bill number assigned to the courier packet on the first page of the bundle. Make a second photocopy of the first and/or cover page. The photocopy is to be placed in our file.
- (e) Check the items, and the number of pages thereof, going into the envelopes, and enter the items and the number in the log book. Do not enter the item in the log book until you have checked that the item is in the envelope, and you have checked the number of pages. (The purpose of this is to enable you to declare later that the fact that an item and a number are marked in the log book serves as proof that you checked that the item was indeed present in the envelope, and did comprise the indicated number of pages).
- (f) When you have checked the contents of each paper-envelope, made note that the Fed Ex weigh bill number on the cover page corresponds with the Fed Ex weigh bill number for the particular package, insert the paper-envelopes into a Fedex envelope. Check that the paper-envelopes correspond to the log book entry, and seal the Fedex envelope. Call the courier to schedule a pick-up, before 2 00 pm, the pick-up to be before 4 00 pm.
- (g) Receive the 'sender's copy' of the weighbill from the Fedex clerk, and place it on your desk.
- (h) The next day, telephone Fedex, for confirmation that the Fedex envelope has been delivered, intact, to the PO. Enter the confirmed date and time of delivery, and the name of the PO employee who signed for the envelope. Hand-write this information onto our copy of the weighbill.
- (i) Take photocopies of the weighbill, with the hand-written details, and place the copies one in each of the case-files. Place the weighbill itself in the accounts-payable folder.

"
Exhibit C"
"



Log book entry July 28th

Fed Ex shipment to USPO 8173 9050 4437

① 207-01 US 5605634 renewal
cheque 4832074406 \$415-US

② 801-49 PC entry into National Phase from PCT/CA99/00073
minimum till seeding knife
applicant Summacks et al.
includes entry papers (including signed declaration) 5 pages
letter to amend spec (page 25) & claims
page 25/1
claims 69-88
assignment cover letter
assignment
cheque 4832074395 \$958-US

Exhibit D"